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INVESTIGATIVE NARRATIVE

SUBJECT: **DUXBURY,** Kevin B., #[redacted]

INVOLVED PARTY: [redacted], Bkg. [redacted]

SWORN WITNESSES: **EAGAR,** Anthony R., #[redacted]
KALLENBERGER, Maxine D., #[redacted]

CIVILIAN WITNESSES: [redacted] DOB [redacted]
[redacted] DOB [redacted]
[redacted] DOB [redacted]
[redacted] DOB [redacted]

DATE & TIME: October 11, 2008, 2050 hours

LOCATION: 23845 McBean Parkway, Valencia, California, 91355
Henry Mayo Memorial Hospital

INVESTIGATOR: Sergeant Scott Hill

SYNOPSIS:

On October 13, 2008, Sergeant Cortland Myers IV was the Santa Clarita Valley Sheriff's Station Watch Commander. He took a Watch Commander's Service Comment Report (WCSCR) from Nurse [redacted] (Refer to Exhibit "B" - Watch Commander Service Comment Report, #210856). Nurse [redacted] is an Emergency Room nurse at Henry Mayo Memorial Hospital in Santa Clarita. Nurse [redacted] complained about Deputy Kevin Duxbury. The narrative of the WCSCR reads;

> *Reporting party (nurse at location) said Deputy Duxbury used unreasonable force on* [redacted] *while he was waiting for an "Okay to Book."*

On November 10, 2008, Lieutenant Tom Bryski, spoke to Deputy Duxbury about the complaint.

> **IAB Note:** Lieutenant Bryski had not spoken to Nurse [redacted] prior to his conversation with Deputy Duxbury.

Deputy Duxbury told Lieutenant Bryski he had arrested [redacted] for being drunk in public (Refer to Exhibit "A" - SH-R-49, URN #108-18197-0641-201, written by Deputy Kevin Duxbury on October 11, 2008).

He (Duxbury) took Mr. [redacted] to Henry Mayo Memorial Hospital for an "Okay to Book" because Mr. [redacted] had a small abrasion on his cheek, not related to his arrest. Deputy Duxbury stated while they were waiting in the E.R. Mr. [redacted], who was drunk, refused to remain seated.

While attempting to get Mr. [redacted] to sit down Deputy Duxbury tripped on a Gurney and the two fell to the ground. Deputy Duxbury stated Mr. [redacted] landed on his shoulder and was uninjured as a result of the fall. Mr. [redacted] was subsequently given an "okay to book" by the E.R. staff.

Deputy Duxbury stated Sergeant Maxine Kallenberger just happened to be in the E.R. on an unrelated incident. Deputy Duxbury told Sergeant Kallenberger that Mr. [redacted] had accidentally fallen and was uninjured. Deputy Duxbury told Sergeant Kallenberger no force was used on Mr. [redacted].

On November 12, 2008, Lieutenant Bryski interviewed Nurse [redacted] regarding her complaint. Lt. Bryski's memorandum stated;

> *She [redacted] said that on that date, Deputy Duxbury had an intoxicated arrestee named [redacted] in the emergency room. [redacted] would not sit down and the deputy was struggling with the handcuffed man. Someone asked the deputy if he needed a Gurney and he said yes. As the Gurney was being wheeled toward them, Deputy Duxbury put his right leg across [redacted] feet and he threw [redacted] face first onto the floor. [redacted] being handcuffed, was unable to protect himself and his head and chest struck the floor. Deputy Duxbury then screamed at [redacted], "You want to fuck with me?" He screamed this so loud that everyone in the emergency room stopped what they were doing and stared at the deputy. [redacted] said that as a result of being thrown to the ground and striking his face on the floor . . . and there was a small amount of blood coming from his nose.*
>
> *When one of the hospital staff walked toward them, Deputy Duxbury said, "You see how he tripped over my feet?"*
>
> *A nurse helped Deputy Duxbury pick up [redacted] and strap him to the Gurney. Due to the possibility that [redacted] may have sustained a head or neck injury when he was thrown to the ground, he was given a CAT-Scan. The CAT-Scan revealed that he sustained a fractured nose.*

Based on Nurse [redacted] statement, Lieutenant Bryski interviewed two additional witnesses, Emergency Medical Technician [redacted] and Doctor [redacted] Both witnesses stated substantially the same as Nurse [redacted]

Based on this information, Lieutenant Bryski notified Captain Jacques A. LaBerge via memorandum, (Refer to Exhibit "C" LASD Office Correspondence, written by Lt. Tom Bryski on November 13, 2008).

On November 13, 2008, Chief Neal B. Tyler requested that the Internal Criminal Investigations Bureau initiate a criminal investigation. On November 14, 2008, after conferring with Captain Steven M. Roller and Lieutenant Juan J. Fabrega, Chief Tyler requested that the Internal Affairs Bureau handle the investigation.

INTERVIEWS:

Deputy Kevin B. Duxbury, Emp. #[redacted]

Deputy Duxbury was interviewed on June 18, 2009, at 1315 hrs. by IAB Sergeants Scott Hill and Jimmy Rios. The interview was digitally audio recorded. For further details regarding Deputy Duxbury's interview refer to the verbatim transcription included with this investigation.

Deputy Duxbury has been employed by the Los Angeles County Sheriff's Department for nine years. On October 11, 2008, he had been assigned to the Santa Clarita Valley Station for two years.

On October 11, 2008, Deputy Duxbury was working PM shift in unit 64, a one-man unit. The unit covers the Saugus / Valencia area. At 2014 hours Deputy Duxbury received a radio call for a drunk in public at a 7-11 store on the corner of Bouquet Canyon and Plum Canyon Road, Tag #285 (Refer to the Incident History Report for Tag #285, Miscellaneous Documents). Assisted by units, 64A, and 64T2, Deputy Duxbury responded to the radio call.

Upon his arrival, Deputy Duxbury saw a male adult, later identified as Mr. [redacted], sitting on the curb in front of the 7-11. Deputy Duxbury contacted Mr. [redacted] and noted he was drunk. Mr. [redacted] didn't speak English. Assisted by Deputy Eagar, who spoke some Spanish, Deputy Duxbury attempted to ascertain Mr. [redacted]' home address so he (Duxbury) could drive him home.

Deputy Duxbury found a cellular phone on Mr. [redacted] person. Deputy Duxbury stated, Deputy Eagar tried locating somebody who could care for Mr. [redacted]. Deputy Duxbury stated Deputy Eagar couldn't reach anybody on the cellular phone so he (Duxbury) decided to arrest Mr. [redacted] for being drunk in a public place. Deputy Duxbury didn't attempt to locate the informant of the call prior to leaving the location.

Deputy Duxbury noted that Mr. [redacted] had a small, fresh abrasion below his left eye. He described the abrasion as the type of injury one might sustain by scraping themselves on a stucco wall. Because of this injury, Deputy Duxbury decided to take Mr. [redacted] to Henry Mayo Memorial Hospital for an "Okay to Book."

IAB Note: The "Incident History" for Tag #285 indicates Deputy Duxbury went 10-97 at 2018 hours, and 10-15 at 2033 hours.

Deputy Duxbury handcuffed Mr. [redacted] and escorted him to the radio car. Deputy Duxbury stated Mr. [redacted] didn't offer any resistance, however due to his level of intoxication, he had difficulty walking.

Upon their arrival at Henry Mayo Memorial Hospital , the ER staff directed Deputy Duxbury and Mr. [redacted] to wait along a wall, outside the examination rooms. Deputy Duxbury described the ER as "packed." Deputy Duxbury made a sketch indicating where they were directed to sit, refer to Exhibit "D" Sketch of Henry Mayo Memorial Hospital ER. As they waited, Mr. [redacted] repeatedly tried to stand up. Deputy Duxbury said, "I would just get up and either just put a hand on his shoulder and he would just sit down on his own."

At one time Deputy Duxbury stated Mr. [redacted] stood. Deputy Duxbury grasped both of Mr. [redacted] biceps. "I remember turning him to get him back in the chair, that's when our legs got tangled up, we both went down to the floor." Deputy Duxbury stated Mr. [redacted] fell "face first" to the floor. After falling, Deputy Duxbury stated he (Duxbury) landed on his knees. Deputy Duxbury was asked if he kicked Mr. [redacted] knee to bring him to the ground. He said, "No I didn't." Deputy Duxbury indicated in the Incident Report (Exhibit "A" SH-R-49, URN #108-18197-0641-201) that Mr. [redacted] head struck the floor. Duxbury stated he didn't notice Mr. [redacted] nose bleeding after the fall.

Deputy Duxbury was asked if he ever said, "You want to fuck with me?" or "Do you want to fuck with me?" He stated he might have said, "Stop messing around." After the fall, Deputy Duxbury stated Mr. [redacted] said, in a chuckling manner, "Okay mister, no more."

Deputy Duxbury was asked if he said, "Do you see how he tripped over my feet?" Deputy Duxbury stated he doesn't recall making that statement. He said, "I just don't talk like that."

Deputy Duxbury stated a "big guy with a goatee" possibly white or Hispanic approached them and said, "Do you need help?" Deputy Duxbury said, "I need a bed for this guy." The male brought a Gurney and helped Deputy Duxbury lift Mr. [redacted] onto it. Deputy Duxbury stated Mr. [redacted] didn't lose consciousness, but rather fell asleep on the Gurney.

Approximately ten minutes after Deputy Duxbury and Mr. [redacted] fell, Deputy Duxbury stated he saw Sergeant Kallenberger in the ER. Deputy Duxbury stated he approached Sergeant Kallenberger, "I went and I told her that you know, we had an accident, I was trying to get him in his chair. We both got tangled up and went to the floor." Deputy Duxbury stated he asked Sergeant Kallenberger if he needed to report the fall as force. She replied, "No, if it's an accident it's not force. Just mention in your report what happened."

When asked if he notified Sergeant Kallenberger that Mr. [redacted] head had hit the floor during the fall, he said, "I don't remember." Deputy Duxbury was asked if he knew that an accidental fall resulting in injury to the Suspect's head requires immediate notification to the on-call IAB Lieutenant. He stated he was unaware of that requirement.

Mr. [redacted] received a Cat Scan. The Cat Scan revealed he was suffering from a fractured nose and head injury (Refer to Exhibit "E" Henry Mayo Discharge Instructions, for [redacted], Patient ID M000628601). That form (Exhibit "E") along with Exhibit "F" the "Okay to Book Form" were provided to Deputy Duxbury by the ER staff.

Deputy Duxbury indicated in his incident report, "Medical staff performed a Cat Scan on S/[redacted] which revealed no injuries."

Deputy Duxbury stated the "Okay to Book" form given to him indicated only, "Okay to Book" with no injuries indicated on it. An examination of Exhibit "F" the Henry Mayo Memorial Hospital, Medically clear to book form for [redacted], Patient ID [redacted], reads, "Medically clear to book."

> **IAB Note:** The only hospital paperwork provided to Sergeant Hill consisted of Exhibit "F" the Henry Mayo Memorial Hospital, Medically clear to book form, page 1 of 2. The contents of page 2 are unknown. Exhibit "E" the Henry Mayo Memorial Hospital Discharge Instructions, for [redacted], Patient ID [redacted] pages 1, 2, 3, and 4. Page 5 is missing. A Medical Release Form was not obtained from Mr. [redacted] while he was in LASD custody. Subsequent attempts to locate him have proved unsuccessful.

Nurse [redacted]

Nurse [redacted] was interviewed on August 4, 2009, at 1030 hrs. by IAB Sergeant Scott Hill. The interview was digitally audio recorded. For further details regarding Nurse [redacted] interview refer to the verbatim transcription included with this investigation.

Nurse [redacted] stated on October 11, 2008, she was working in the emergency room at Henry Mayo Memorial Hospital, she is an E.R. Nurse.

Nurse [redacted] said;

> I was sitting at one of the computer desks, charting or doing something on the computer and directly in front of me this deputy had brought the inmate in. [His hands were] cuffed behind his back. They were standing together and he was trying to get him to sit into one of the chairs that was next to him. Often times when the deputies bring [the] inmates in they sit them in a chair and we do what needs to be done there.

> This inmate was not cooperative sitting in the chair. He was resisting. He was kind of locking his knees and just standing firm. The deputy was kind of trying to push him down into the chair. This kind of struggle went on a little while and not a lot of movement, just this inmate not getting into the chair and so the charge nurse saw it and he said, "Why don't I get a Gurney?" and he (Duxbury) said, "That would be fine."
>
> So he (the Charge Nurse) went and got a Gurney and started bringing it down the hallway. [I] was probably about twelve feet away from the inmate when the deputy, because I was just sitting kind of watching this whole scene, the deputy crossed his right leg over in front of the inmate's, both of his legs, put his hand behind his neck and then threw him with full force straight down to the ground. He hit one of those bed side tables on the way down and then landed face first on the ground. He (Duxbury) put his knee on his back, got on his back and screamed at the top of his lungs, "Do you want to fuck with me?" and then he yelled it again, "Do you want to fuck with me?" The entire Department was dead quiet after the first time and certainly everybody heard it both times.
>
> Myself and another doctor (Witness [redacted]) and one of the EMT's (Witness [redacted] and another nurse (Witness [redacted] all witnessed it. Our mouths had pretty much dropped open. The inmate was knocked out. He was lifted onto the Gurney and proceeded to be laid down there. One of the nurses came and checked his vital signs and triaged him. He appeared to be asleep or knocked out for I want to say probably about ten or fifteen minutes. He [was] under the influence.

After the two had fallen to the ground, Deputy Duxbury stated to a nearby Charge Nurse, "Did you see how he just tripped over my feet there?" Nurse [redacted] stated the Charge Nurse has a history of "strong-arming" patients who don't cooperate with staff. Nurse [redacted] described the Charge Nurse as having a "thug mentality." Nurse [redacted] stated she felt Deputy Duxbury was looking to the staff as potential "allies."

Nurse [redacted] stated she has worked at Henry Mayo Memorial Hospital for [redacted] years;

> We see them act up. I've seen plenty of force in various situations and this one was just so over and above. I didn't quite know how to react to it. I ended up tossing and turning awake most of the night, worrying about it. [I] came in the next shift . . . and went straight to my director. [I] told her what I had seen and what happened. [I] told her that I felt like I needed to report it. She agreed that I had to report it which I was happy to do.

Nurse [redacted] stated she had never seen Deputy Duxbury in the ER before. She didn't triage Mr. [redacted] prior to the use of force incident so she was unable to confirm any previous injury to Mr. [redacted] as stated by Deputy Duxbury.

Deputy Anthony R. Eagar, Emp. #[redacted]

Deputy Eagar was interviewed on August 5, 2009, at 1135 hrs. by IAB Sergeant Scott Hill. The interview was digitally audio recorded. For further details regarding Deputy Eagar's interview refer to the verbatim transcription included with this investigation.

Deputy Eagar stated;

> I recall an individual sitting on end of the curb of the parking lot. We were talking with him, trying to find out I believe where he might live to give him a ride home. I recall him speaking Spanish and I speak broken Spanish. I was trying to get from him a phone number to call to give him a ride home that night.

Deputy Eagar stated he was unsuccessful and the suspect was subsequently arrested by Deputy Duxbury.

Deputy Eager was asked if he remembered the suspect suffering from any injury. Deputy Eagar said, "I don't remember."

Deputy Eagar was asked if he recalled trying to use the suspect's cellular phone. Deputy Eagar stated, "No, I don't think he had a cell phone." (Refer to attached email dated 08-12-2009 for further information regarding this question, the email is included with Deputy Eagar's IAB interview).

Deputy Eagar stated he has no recollection of any subsequent discussion regarding this incident with Deputy Duxbury.

Sergeant Maxine D. Kallenberger, Emp. #[redacted]

Sergeant Kallenberger was interviewed on August 12, 2009, at 1531 hrs. by IAB Sergeant Scott Hill. The interview was digitally audio recorded. For further details regarding Sergeant Kallenberger's interview refer to the verbatim transcription included with this investigation.

Sergeant Kallenberger said;

> I responded to Henry Mayo Hospital with some juvenile arrestees that were involved in a use of force with other deputies, not involving Deputy Duxbury. A large party call. I had gone there to get these subjects seen by the doctor and "Okay to book." While I was there, I looked across the room and I saw Deputy Duxbury sitting on a chair with a person on a Gurney next to him. I said, "What happened to him?" and he said, "Oh, he stood up out of the chair and he fell down." and I said, "He stood up on his own and fell down on his own?" and he said, "Yeah." and I said, "No use of force?" and he said, "No, no use of force." He said, "He stood up on his own and fell down."

Sergeant Kallenberger stated Deputy Duxbury's prisoner appeared to be conscious, she stated he was "mumbling." She stated she could tell he was under the influence of alcohol.

EMT [redacted]

EMT [redacted] was interviewed on July 29, 2009, at 2103 hrs. by IAB Sergeant Scott Hill. The interview was digitally audio recorded. For further details regarding EMT [redacted] interview refer to the verbatim transcription included with this investigation.

On October 11, 2009, EMT [redacted] stated he was working in the Henry Mayo Memorial Hospital ER as an Emergency Medical Technician. EMT [redacted] stated he was part of the team that initially triaged Mr. [redacted] EMT [redacted] stated he didn't note any injury to Mr. [redacted] when he first examined him.

EMT [redacted] recalled seeing Deputy Duxbury and his prisoner [redacted] sitting outside examination room nine and ten. EMT [redacted] was seated at a computer terminal approximately six to eight feet away. EMT [redacted] stated Mr. [redacted] was Spanish speaking only, and "appeared to fairly drunk and at the time he was not wanting to sit down." EMT [redacted] stated he recalled Deputy Duxbury using some profanity in an attempt to gain Mr. [redacted] compliance, regarding taking a seat, something similar to "You fucker sit down you know, don't mess with me." EMT [redacted] recalled seeing Deputy Duxbury pushing down on Mr. [redacted] shoulders, trying to get him to sit down. EMT [redacted] described Mr. [redacted] as "defiant."

EMT [redacted] stated Deputy Duxbury used a "leg sweep" and "brought him down to the ground." EMT [redacted] stated Mr. [redacted] struck his head on a table as he descended to the floor. The resulting injury "caused him to bleed a bit." EMT [redacted] said, "I thought that it was a little unnecessary or well the way that he did it, because he did it when he was angry. He was obviously frustrated with the suspect that it seemed to me unnecessary, because although he wasn't sitting down, he also wasn't you know, being threatening or anything else . . . I helped put him up into the bed and you know, he was bleeding pretty good from the head."

EMT [redacted] stated Mr. [redacted] didn't lose consciousness.

EMT [redacted] was asked if he heard Deputy Duxbury say anything to Mr. [redacted] after the take-down, he stated "I don't recall."

Nurse [redacted] approached EMT [redacted] after the incident, "She questioned me you know, "Do you think that that was a bit excessive?" and I said, "You know, yeah, I think that it was, but you know there wasn't too much discussion after that."

EMT [redacted] stated he has never seen Deputy Duxbury in the ER prior to this incident.

[redacted], M.D.

Dr. [redacted] was interviewed on August 12, 2009, at 1011 hrs. by IAB Sergeant Scott Hill. The interview was digitally audio recorded. For further details regarding Dr. [redacted]'s interview refer to the verbatim transcription included with this investigation.

On October 11, 2008, Dr. [redacted] was one of several physicians working in the Henry Mayo Memorial Hospital Emergency Department.

Dr. [redacted] said;

> I had been sitting down on the other side of the desk, across the hall from where an inmate and a deputy were sitting and there was a bed there and I don't recall the name of the patient or the deputy. I was not the one taking care of that [patient], but I did see a patient who was handcuffed try to get up and try to move around. He wasn't following what the deputy wanted him to do. When I looked up, it seemed the patient had stood up and tried to move away. Not very forcefully, but the deputy grabbed him by the arms and was trying to get him to sit down and he wasn't going to sit down. So he forcibly tried to move him around and it appeared to me that he forcibly threw him to the ground and his head hit the ground and he was in handcuffs.
>
> It seemed like when it happened, the deputy was the more forceful person pushing him down.

When asked if the deputy swept the inmate's legs out from under him, Dr. [redacted] said, "You know, I was sitting down and there was a printer in front of me and all I saw really was the top half of his body. So I cannot say that, but I know that he swung him around and he hit the ground."

Asked if Deputy Duxbury used any profanity, Dr. [redacted] said, "He was using profanity in a large, in a loud way." Dr. [redacted] stated he thought Deputy Duxbury used the "F-word." Dr. [redacted] stated Deputy Duxbury's language "quieted down" the ER. Dr. [redacted] couldn't recall Deputy Duxbury making a statement similar to "Did you see how he tripped over my feet?"

Dr. [redacted] stated Dr. [redacted] was Mr. [redacted] primary physician. Dr. [redacted] didn't examine Mr. [redacted] upon his arrival so he couldn't comment on any pre-existing injury Mr. [redacted] might have suffered. Dr. [redacted] stated Mr. [redacted] didn't lose consciousness.

Nurse [redacted]

Nurse [redacted] was interviewed on August 12, 2009, at 1605 hrs. by IAB Sergeant Scott Hill. The interview was digitally audio recorded. For further details regarding Nurse [redacted] interview refer to the verbatim transcription included with this investigation.

On October 11, 2008, Nurse [redacted] stated she was working in the "ER Holding" at Henry Mayo Memorial Hospital as the "Overflow Nurse." From an unobstructed distance of approximately fifteen feet, Nurse [redacted] saw Deputy Duxbury and Mr. [redacted]

Nurse [redacted] said;

> They were standing in the hallway and when the patient . . . apparently didn't want to sit down. So they were standing up together. ...A gurney [was] en route to this particular patient. There was a chair there, but the patient didn't want to sit down.
>
> He ([redacted] was not being obnoxious, he was not being unruly, he just didn't want to sit down and this particular deputy was you know, wanting him to sit down. Was agitated with him. ...There was a bedside table right in front of them. It happened really fast, but I know that the deputy kind of put his foot out a little bit and the patient fell over, tripped over his foot and he pushed him down to the floor and then his head hit the floor and he pushed his face down into the floor. ...He (Duxbury) blurted out you know, some aggressive words to him. Like, "Do you want to F with me?" He yelled that a couple different times . . . He was yelling you know the words in front of everybody. Our E.R. was packed that night. I think I was more shocked because of the aggressive words that came out of his mouth.

After Mr. [redacted] landed on the floor, Deputy Duxbury placed his knee on Mr. [redacted] back. Nurse [redacted] stated this is when Deputy Duxbury yelled out, "Do you want to F with me?"

Nurse [redacted] said, "I was in shock. I was just like oh my God. I could not believe that he did that."

Shortly after the incident Deputy Duxbury said, "You guys, you saw what I had to do?" Nurse [redacted] said, it was "like we were going to side with him." Nurse [redacted] said Deputy Duxbury "did get really nervous and his body language changed when he knew he knocked him out and he knew we were pissed. Like he knew me and the other nurses weren't happy with him."

Nurse [redacted] stated Mr. [redacted] head "clipped the bedside table on the way down." Nurse [redacted] stated Mr. [redacted] was "knocked out." Nurse [redacted] stated Mr. [redacted] required additional care as a result of Deputy Duxbury's actions.

Prior to this incident Nurse [redacted] had never seen Deputy Duxbury in the ER.

On August 5, 2009, [redacted] R.N., the [redacted] Emergency and Trauma Services was asked if the ER is under video surveillance. Nurse [redacted] stated it was not (Refer to E-mail from Nurse [redacted] in the Miscellaneous Documents).

[redacted], Bkg. #[redacted]

All efforts to locate Mr. [redacted] were unsuccessful.

October 11, 2008, Administrative Messages

60S: Sergeant Maxine D. Kallenberger
64: Deputy Kevin B. Duxbury

20:40:54 to: 60S & SCTWD from: 64
10-15 W/390 ENRT HENRY MAYO FOR OK 2 BOOK

20:43:04 to: 64 from: 60S
IS 390 COOP OR DO I NEED TO RESPOND TO HM WITH YOU

20:45:03 to:60S from: 64
NOT TOTALLY COOP NO ENGLISH VERY 390 CANT STAND

20:46:24 to: 64 from: 60S
WELL DO I NEED TO RESPOND

20:48:08 to: 60S from: 64
IM OKAY NO FORCE ISSUES ID YOUD LIKE TO SWING BY HOSP JUST TO HELP ME WALK HIM ID APPRECIATE IT

20:48:36 to: 64 from: 60S
WHAT IS YOUR ETA

20:49:19 to: 60S from: 64
97

20:49:52 to: 64 from: 60S
I CAN COME FRM STA

20:50:43 to: 60S from: 64
IF U LIKE GOING IN NOW

INVESTIGATIVE NARRATIVE ADDENDUM

SUBJECT: **DUXBURY,** Kevin B., #476466

INVOLVED PARTY: [redacted] Bkg. #[redacted]

CIVILIAN WITNESSES: [redacted], DOB [redacted]
[redacted] DOB [redacted]

DATE & TIME: October 11, 2008, 2050 hours

LOCATION: 23845 McBean Parkway, Valencia, California, 91355
Henry Mayo Memorial Hospital

INVESTIGATOR: Sergeant Scott Hill

On September 22, 2009, Captain Jacques A. La Berge requested that Sergeant Hill re-interview Sergeant Maxine Kallenberger, and interview Dr. [redacted] and Nurse [redacted] Sergeant Kallenberger is on vacation until September 30, 2009, so she was not interviewed. Dr. [redacted] and Mr. [redacted] were both interviewed on September 22, 2009. Both were interviewed at Henry Mayo Memorial Hospital in the Emergency Department.

INTERVIEWS

[redacted] R.N.

Nurse [redacted] was interviewed on September 22, 2009, at 2025 hrs. by IAB Sergeant Scott Hill. The interview was digitally audio recorded. For further details regarding Nurse [redacted] interview refer to the verbatim transcription included with this investigation.

Nurse [redacted] stated he was working in the E.R. on October 11, 2008. He said he recalled seeing a deputy, later identified as Deputy Duxbury;

> The deputy kept asking him ([redacted]) to you know, sit down, calm down you know, "We'll be out of here quick." that kind of thing and on several occasions I saw the patient actually kind of bump the deputy, he actually attempted to stand up and try and you know, go up to the deputy . . .
>
> And the deputy kept putting him back in the chair and then at one point the guy, the guy did get up and actually started trying to wrestle with the deputy and that's when the deputy was trying to take him, turn him back around into the chair and somehow the guy lost his balance.

Nurse [redacted] stated the two didn't actually "wrestle." Nurse [redacted] demonstrated what he saw that evening by placing both of his arms on Sergeant Hill's shoulders as Sergeant Hill stood. Nurse [redacted] pushed Sergeant Hill's shoulders in a downward motion.

Nurse [redacted] said;

> I saw nothing in an extreme use of force or anything like that. But like I said, the gentleman lost his balance and unfortunately, and just by sheer coincidence, one of our rolling tables . . . just happened to be in the way and the gentleman did hit his head on the table.

Nurse [redacted] stated Deputy Duxbury attempted to catch Mr. [redacted] as he fell. Nurse [redacted] stated Mr. [redacted] was knocked unconscious for approximately thirty minutes.

Nurse [redacted] stated "In my opinion the deputy did nothing wrong, except he did make the comment." From a distance of approximately thirty to forty feet Nurse [redacted] heard Deputy [redacted] say, "You don't want to mess with me, you don't want to fuck with me." Nurse [redacted] said, "[It's] something to that and I thought oh, that's probably not the best thing to have said."

Nurse [redacted] didn't recall Deputy Duxbury say, "Did you see how he tripped over my leg."

Nurse [redacted] didn't recall noting if Mr. [redacted] arrived with any previous injuries.

[redacted] M.D.

Dr. [redacted] was interviewed on September 22, 2009, at 2047 hrs. by IAB Sergeant Scott Hill. The interview was digitally audio recorded. For further details regarding Dr. [redacted] interview refer to the verbatim transcription included with this investigation.

Dr. [redacted] stated he was working in the E.R. on October 11, 2008.

Dr. [redacted] stated he couldn't recall treating Mr. [redacted] Nurse [redacted] obtained Mr. [redacted] medical file from the hospital's computer system. Dr. [redacted] referred to this document during his interview. Dr. [redacted] described Mr. [redacted] injuries, "He had the evidence of trauma to the left maxillary area, he had old dried blood in his nasal pharynx and I note boney deformities."

Dr. [redacted] stated at the time he examined Mr. [redacted] he ([redacted]) was unaware that Mr. [redacted] had fallen in the E.R. He learned of the fall several days later. Dr. [redacted] believed all the injuries he observed and later described were suffered by Mr. [redacted] in the field. Dr. [redacted] stated the injuries he observed could have occurred in the E.R. or in the field prior to his ([redacted]) arrival to the E.R. Dr. [redacted] statement, "Prior to arriving in the emergency department, the patient was resisting arrest and that was a concern of the arresting deputies, that he had, in being restrained his face went into the ground at the time of arrest." was based on inaccurate information provided to him by hospital staff.



County of Los Angeles

Sheriff's Department Headquarters

4700 Ramona Boulevard
Monterey Park, California 91754-2169



Leroy D. Baca, Sheriff

October 8, 2009

Deputy Kevin Duxbury, #[redacted]

Dear Deputy Duxbury:

You are hereby notified that it is the intention of the Sheriff's Department to suspend you without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of fifteen (15) days.

An investigation under IAB File Number 2232393, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Sections 3-01/030.05, General Behavior; and /or 3-01/050.10, Performance to Standards; and/or 3-3-01/050.20, Duties of All Members; and/or 01/030.10, Obedience to Laws, Regulations and Orders (*as it pertains to Manual Section 5-09/430.00, Use of Force Reporting and Review Procedures*), on or about October 11, 2008, while at the Henry Mayo Memorial Hospital, you used force against a "handcuffed" arrestee, [redacted] by putting your right leg across [redacted] feet, and then throwing [redacted] to the floor, resulting in [redacted] sustaining a head or neck injury and a fractured nose. Moreover, you failed to report your use of force to a supervisor as required by the aforementioned policies. By your actions, you failed to conform to the work standards established for your position as a deputy sheriff and you have brought discredit upon yourself and the Sheriff's Department.

2. That in violation of Manual of Policy and Procedures Section 3-01/040.70, False Statements, on or about October 11, 2008, you made false and/or misleading statements to Sergeant Kallenberger and hospital personnel at Henry Mayo Memorial Hospital, including, but not limited to:

   a) that [redacted] had accidentally fallen and was uninjured, and/or;

   b) that you did not use force on [redacted]

3. That in violation of Manual of Policy and Procedures Sections 3-01/040.70, False Statements and/or 3-01/100.35, False Information in Records, on or about October 11, 2008, you entered false information into an official Incident Report, including, but not limited to, that you escorted [redacted] to his chair and he fell and hit his head on the floor.

4. That in violation of Manual of Policy and Procedures Section 3-01/040.75, Failure to Make Statements and/or Making False Statements During an Internal Investigation, on or about June 18, 2009, you made false and/or misleading statements to investigators, including but not limited to:

   a) that you did not use force against [redacted] and/or;

   b) that yours and [redacted] legs got "tangled up," causing both of you to fall to the floor simultaneously.

5. That in violation of Manual of Policy and Procedures Sections 3-01/030.05, General Behavior; and/or 3-01/000.10, Professional Conduct; and/or 3-01/030.85, Derogatory Language, on or about October 11, 2008, you used coarse and/or profane and/or derogatory language while in the presence of hospital personnel at the Henry Mayo Memorial Hospital, when you screamed loudly at [redacted] words to the effect of, "You want to fuck with me," causing everyone in the emergency room to stop and stare at you. Your actions conflict with this Department's Core Values, Mission and Creed and have brought discredit and embarrassment upon yourself and the Sheriff's Department.

Prior to determining this disciplinary action, I have thoroughly reviewed the incident and your record with this Department.

You have the right to grieve this disciplinary action within ten (10) business days of receipt of this letter. Your grievance procedures may be found in your classification's negotiated Memorandum of Understanding.

Failure to respond to this Letter of Intent within ten (10) business days will be considered a waiver of your right to grieve and will result in the imposition of this discipline indicated herein.

At the time of service of this letter of intent, you were provided with a copy of the material on which the discipline is based. If you are unable to access the information provided in the enclosed CD, you may contact Irma Franco, of Internal Affairs Bureau, at (323) [redacted] and arrange an appointment for assistance in this regard.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

Jacques A. La Berge, Captain
Commander, Santa Clarita Valley Station

JAL:KM:md

c: Advocacy Unit
Employee Relations Unit
Neal B. Tyler, Chief, Field Operations Region I
Internal Affairs Bureau
Office of Independent Review (OIR)
(File # IAB 2232393)

EDUCATION-BASED DISCIPLINE AGREEMENT

This Agreement is entered into between the Los Angeles County Sheriff's Department, hereinafter referred to as "Department," and Deputy Kevin Duxbury, Employee No. [redacted] hereinafter referred to as "Grievant."

The Department and Grievant are parties to this dispute and desire to settle all issues involved in IAB No. 2232393 upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, the Department and Grievant for and in consideration of the mutual covenants contained herein, agree as follows:

1. Both parties agree that the fifteen (15) day suspension shall stand.

2. The Department will, upon execution of this Education-Based Discipline (EBD) Agreement, impose three (3) suspension days and hold twelve (12) days in abeyance.

3. Both parties agree and understand that the Grievant's records will reflect that the fifteen (15) day suspension was imposed and may be used for the purposes of demonstrating "progressive discipline." In addition, the Grievant understands that he will be subjected to additional discipline for each and every founded violation of the Department's Manual of Policy and Procedures.

4. The Grievant further agrees to attend and complete the below listed EBD courses and understands that failure to complete **all** of the courses and assignments shall result in the imposition of the twelve (12) days held in abeyance:

- Lieutenant's Interactive Forum for Education (LIFE) class (8 hours)
- Imagine 21 course (32 hours)
- Anger Awareness - Management class (4 hours)
- Dealing with Difficult People class (4 hours)
- Write an EBD evaluation reflecting on your experience with the EBD process

5. The Department may adjust the Grievant's schedule to participate in EBD courses and EBD items, as EBD is conducted on-duty.

6. The Grievant agrees to cooperate with his Unit Commander to complete the courses as soon as practicable, but no longer than one (1) year from the date of execution of this EBD Agreement.

7/22/10

7. The Grievant further agrees to waive any and all further administrative or judicial remedies with respect to the Letter of Imposition and the modified discipline, and also waives any administrative or judicial remedies with respect to any imposition pursuant to paragraph three (3), above. This waiver shall include, but not be limited to, appeals to the Los Angeles County Civil Service Commission and/or the Los Angeles County Employee Relations Commission.

8. The parties further agree that this EBD Agreement shall not be considered, cited, or used in future disputes as establishing past precedent or past employment practice.

9. In consideration of the terms and conditions set forth herein, Grievant agrees to fully release, acquit and forever discharge the County, and all present and former officers, employees and agents of the County, and their heirs, successors, assigns and legal representatives from any and all liability whatsoever for any and all claims arising out of or connected with the employment relationship between the County and Grievant concerning the subject matter referred to herein.

10.The Grievant further agrees to relinquish and expressly waives all rights conferred upon him by the provisions of California Civil Code Section 1542, which reads as follows:

> "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

11.The date of the last signature placed hereon shall hereinafter be known as the "date of execution" and the "effective date" of this EBD Agreement.

12.The parties agree that the foregoing comprises the entire EBD Agreement between the parties and that there have been no other promises made by any party. Any modification of this EBD Agreement must be in writing.

I have read the foregoing EBD Agreement, and I accept and agree to the provisions contained therein and hereby execute it voluntarily and with full understanding of its consequences.

Date: 07/07/10

Kevin Duxbury, Deputy

Date: 7/7/10

Neal Tyler, Chief



Leroy D. Baca, Sheriff

County of Los Angeles

Sheriff's Department Headquarters

4700 Ramona Boulevard
Monterey Park, California 91754-2169



August 16, 2010

Deputy Kevin Duxbury, #[redacted]

Dear Deputy Duxbury:

On October 8, 2009, you were served with a Letter of Intention, indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under IAB File Number 2232393. You were also advised of your right to review the material on which the discipline was based.

You are hereby notified that pursuant to an Education-Based Discipline (EBD) Agreement between you and this Department dated July 7, 2010, you are suspended without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of fifteen (15) days. However, pursuant to the EBD agreement, twelve (12) of the fifteen (15) days will be held in abeyance for a period of twelve (12) months which will end on July 6, 2011. All Department records will reflect, nevertheless, that you received a fifteen (15) day suspension. In accordance with the EBD Agreement, you have agreed to participate in an education-based alternative to discipline. Should you fail to complete any of the terms and conditions of the EBD Agreement, the twelve (12) days held in abeyance will be imposed.

The effective dates for the remaining three (3) day suspension are from August 19, 2010 through August 21, 2010.

An investigation under File Number IAB 2232393, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Sections 3-01/030.05, General Behavior; and /or 3-01/050.10, Performance to Standards; and/or 3-01/050.20, Duties of All Members; and/or 01/030.10, Obedience to Laws, Regulations and Orders (*as it pertains to Manual Section 5-09/430.00, Use of Force Reporting and Review Procedures*), on or about October 11, 2008, while at the Henry Mayo Memorial Hospital, you used force against a

"handcuffed" arrestee, [redacted] by putting your right leg across [redacted] feet, and then throwing Ramirez to the floor, resulting in [redacted] sustaining a head or neck injury and a fractured nose. Moreover, you failed to report your use of force to a supervisor as required by the aforementioned policies. By your actions, you failed to conform to the work standards established for your position as a deputy sheriff and you have brought discredit upon yourself and the Sheriff's Department.

2. That in violation of Manual of Policy and Procedures Section 3-01/040.70, False Statements, on or about October 11, 2008, you made false and/or misleading statements to Sergeant Kallenberger and hospital personnel at Henry Mayo Memorial Hospital, including, but not limited to:

   a) that [redacted] had accidentally fallen and was uninjured, and/or;

   b) that you did not use force on [redacted]

3. That in violation of Manual of Policy and Procedures Sections 3-01/040.70, False Statements and/or 3-01/100.35, False Information in Records, on or about October 11, 2008, you entered false information into an official Incident Report, including, but not limited to, that you escorted [redacted] to his chair and he fell and hit his head on the floor.

4. That in violation of Manual of Policy and Procedures Section 3-01/040.75, Failure to Make Statements and/or Making False Statements During an Internal Investigation, on or about June 18, 2009, you made false and/or misleading statements to investigators, including but not limited to:

   a) that you did not use force against [redacted] and/or;

   b) that yours and [redacted] legs got "tangled up," causing both of you to fall to the floor simultaneously.

5. That in violation of Manual of Policy and Procedures Sections 3-01/030.05, General Behavior; and/or 3-01/000.10, Professional Conduct; and/or 3-01/030.85, Derogatory Language, on or about

October 11, 2008, you used coarse and/or profane and/or derogatory language while in the presence of hospital personnel at the Henry Mayo Memorial Hospital, when you screamed loudly at [redacted] words to the effect of, "You want to fuck with me," causing everyone in the emergency room to stop and stare at you. Your actions conflict with this Department's Core Values, Mission and Creed and have brought discredit and embarrassment upon yourself and the Sheriff's Department.

Prior to imposing this disciplinary action, I have thoroughly reviewed the incident and your record with this Department.

You will hereby take notice that any future acts of misconduct may result in more severe disciplinary action.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

Paul Becker, Captain
Commander, Santa Clarita Valley Station

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures.

PB:KM:md

c: Advocacy Unit
Neal B. Tyler, Chief, Field Operations Region I
Internal Affairs Bureau
Personnel Administration
Office of Independent Review (OIR)
Santa Clarita Valley Station/unit Personnel File